

# Exhibit C

# ORIGINAL

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
(CAMDEN)

MARYANN COTTRELL and : Civil Docket  
RICHARD HOLLAND : No. 08cv-5418 (NLH)  
Plaintiffs, :  
vs. :  
J&R DISCOUNT LIQUOR :  
GALLERY, INC., d/b/a :  
J&R LIQUORS; and DAVID :  
J. STOUT, JR. :  
Defendants. :

West Berlin, New Jersey  
Wednesday, August 26, 2009

Deposition of DAVID J. STROUT, JR.,  
taken pursuant to notice, at the law offices of  
Friedman Doherty, LLC, 125 North Route 73, West  
Berlin, New Jersey, on the above date, beginning at  
10:04 a.m., before Donna A. Bittner, RMR-CRR.

ANDREA SEGAL REPORTING  
122 Country Farms Road  
Marlton, New Jersey 08053  
(856) 596-1763

1 APPEARANCES:

2 WESLEY G. HANNA, ESQUIRE  
3 Friedman Doherty, LLC  
4 125 North Route 73  
5 West Berlin, New Jersey 08091

6 Counsel for Plaintiffs

7 MARK B. SHOEMAKER, ESQUIRE  
8 Ward Shoemaker LLC  
9 36 Euclid Street  
10 Woodbury, New Jersey 08096

11 Counsel for Defendants

12 ALSO PRESENT:

13 HARRY E. TROUT  
14  
15  
16  
17  
18  
19  
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21  
22  
23  
24

## I N D E X

WITNESS:	PAGE
DAVID J. STROUT, JR.	

By Mr. Hanna ----- 4

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1 nature of your question.

2 MR. HANNA: Of course.

3 MR. SHOEMAKER: I think in fairness  
4 if you want him to answer only in one capacity or  
5 the other you should try to let him know that's  
6 what you want.

7 MR. HANNA: Of course. Is that okay?

8 THE WITNESS: Fine.

9 BY MR. HANNA:

10 Q. Could you describe your involvement with J&D  
11 Liquors?

12 A. I am the president and fifty percent owner.

13 Q. So if there is upper management, you're upper  
14 management with J&D Liquors?

15 A. Correct, yes.

16 Q. And how would you describe J&D Liquors'  
17 customer base?

18 A. I don't understand your question.

19 Q. Well, okay. Who is your target market?

20 A. The public, someone that consumes alcohol.

21 Q. Got you.

22 Do you have a lot of regulars?

23 A. Yes.

24 Q. Okay. Occasional customers?

David J. Strout, Jr.

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1 individuals were not there to purchase liquor or  
2 lottery tickets or cigarettes?

3 A. I don't know that. I don't recall that.

4 Q. Were any of those people ever banned for life  
5 from your premises?

6 A. For asking to use the telephone?

7 Q. Yes.

8 A. No.

9 Q. How about for asking to use the rest room?

10 A. No.

11 Q. I'm going to show you a letter. I'd like for  
12 you to mark this as an exhibit.

13 (Exhibit D. Strout-1 was marked for  
14 identification.)

15 BY MR. HANNA:

16 Q. Do you recognize this letter?

17 A. Yes.

18 Q. Did you personally cause this letter to be  
19 sent to Richard Holland?

20 A. Did I personally what?

21 Q. Cause this to be sent to Mr. Holland?

22 A. Did I personally send it?

23 Q. Did you have it personally sent?

24 A. Yes.

David J. Strout, Jr.

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1 Q. And was it sent on J&D Liquors' behalf?

2 A. Yes.

3 MR. HANNA: I'm going to enter  
4 another exhibit.

5 (Exhibit D. Strout-2 was marked for  
6 identification.)

7 BY MR. HANNA:

8 Q. Do you recognize that letter?

9 A. Yes.

10 Q. Did you personally authorize that letter to  
11 be sent?

12 A. Yes.

13 Q. And was it sent on J&D Liquors' behalf?

14 A. Yes.

15 Q. Is it a fair interpretation of those letters  
16 that either Mr. Holland or Miss Cottrell were to  
17 enter your premises for any purpose you would call  
18 the police and have trespassing charges filed  
19 against them?

20 A. Yes.

21 Q. Has J&D Liquors ever sent or caused to be  
22 sent a letter banning any other person from  
23 entering your premises beside Miss Cottrell and  
24 Mr. Holland?

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1 it?

2 A. Yes.

3 Q. Has anyone ever become, to the best of your  
4 knowledge, has anyone ever become argumentative or  
5 belligerent in your store for any other reason?

6 A. Not to the best of my knowledge.

7 Q. Let's cut to the chase.

8 Could you list to me the reasons why  
9 Miss Cottrell was banned from J&D Liquors'  
10 premises?

11 A. Because Miss Cottrell continually entered our  
12 lot taking pictures of customers, and they would  
13 come in and complain. She was hampering our  
14 ability to please our customers and took me to  
15 court, took either I or J&D to court five or six  
16 different times, which all were dismissed.

17 Q. Okay.

18 A. And five or six of them, I don't know the  
19 exact number.

20 Q. So the first, the first reason why was  
21 because she was taking pictures?

22 A. She was taking pictures of customers that  
23 would come in and complain.

24 Q. To the best of your knowledge, did you ever



David J. Strout, Jr.

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1 receive a complaint from one of these customers?

2 A. Not me personally.

3 Q. Not you personally.

4 To the best of your knowledge were  
5 those individuals parked in handicapped parking  
6 spots?

7 A. I don't know.

8 Q. And if they were parked in handicapped  
9 parking spots would it make a difference?

10 A. To what?

11 Q. To whether or not you would have banned them.

12 A. Based on the information I gave you my  
13 reasons why I banned her.

14 Q. Okay. So you would have banned her  
15 regardless of what her purpose was because she was  
16 taking pictures?

17 A. Well, that's one of the reasons I gave you.

18 Q. Okay.

19 What was the second reason?

20 A. The second reason was hampering our ability  
21 to satisfy our customers because they would come in  
22 feeling very uncomfortable when a stranger is out  
23 there taking their pictures.

24 Q. And the third reason was because?

David J. Strout, Jr.

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1       A.    Because on, I'm saying five to six, I don't  
2   know the exact number, she's taken me to court or  
3   taken my staff to court which has cost me a lot of  
4   money and each charge was thrown out.

5       Q.    Why did she take you to court?

6       A.    Municipal court tickets.

7       Q.    Can you think of the first time she took you  
8   to court?

9       A.    The first time was for a parking ticket for  
10   someone parked in the handicapped zone allegedly.

11      Q.    Allegedly. And was there any merit to that  
12   claim?

13      A.    All I can tell you is that it was dismissed  
14   out of court.

15      Q.    Do you have personal knowledge of the facts  
16   about that claim?

17      A.    Yeah.

18      Q.    Okay.

19                   And was there a car parked in the  
20   handicapped parking space?

21      A.    There was a car parked near the handicapped  
22   space. Whether it was over the lines or not, I  
23   don't know.

24      Q.    Now let's take a step back.

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1 Can you give me the reasons why  
2 Mr. Holland was banned from the premises?

3 A. The same exact reasons as I gave you for  
4 Maryann. He was with her each time basically and  
5 although the tickets are signed by her he appeared  
6 each time to court with her and at the advice of  
7 counsel she was -- he was banned also.

8 Q. Let's take a step back. Do you provide your  
9 customers with handicapped parking?

10 A. Yes.

11 Q. To the best of your knowledge do most liquor  
12 stores provide their customers with handicapped  
13 parking?

14 A. Yes.

15 Q. To the best of your knowledge, do most retail  
16 establishments provide their customers with  
17 handicapped parking?

18 MR. SHOEMAKER: Objection to form.  
19 You can answer to the best of your ability.

20 THE WITNESS: I would assume so.  
21 BY MR. HANNA:

22 Q. Why do you assume that?

23 A. Well, I would assume that there is probably  
24 laws requiring handicapped parking spaces in retail

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1 THE WITNESS: I don't know. Can you  
2 repeat the question?

3 BY MR. HANNA:

4 Q. Do you agree that it is reasonable for a  
5 person to conclude that the same law that requires  
6 you to place a handicapped parking space in your  
7 lot also is violated, not also, is violated when  
8 you park your own car in that spot?

9 A. Yes.

10 Q. Do you agree that it would be reasonable,  
11 whether true or not, but do you agree that it would  
12 be reasonable for a person to conclude that it  
13 violates the law that requires you to place a  
14 handicapped parking space in your lot if you are to  
15 park a vehicle in a manner that made it difficult  
16 to pull in and out of the parking space without  
17 extraordinary effort?

18 MR. SHOEMAKER: Objection. Do you  
19 understand his question?

20 THE WITNESS: No.

21 MR. HANNA: Okay.

22 BY MR. HANNA:

23 Q. Whether or not their conclusion were true, do  
24 you agree that it would be at least reasonable for

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1 a person to conclude that the same law that  
2 requires you to place a handicapped parking space  
3 in your lot also is violated if you park a vehicle  
4 in a manner that makes it hard for a person to park  
5 a vehicle in a handicapped parking space or pull  
6 out of that handicapped parking space without  
7 extraordinary effort?

8 MR. SHOEMAKER: Objection. You can  
9 answer.

10 THE WITNESS: Yes, I would agree.

11 BY MR. HANNA:

12 Q. Can you also agree that if the route between  
13 the handicapped parking space and the access ramp  
14 into your facility is blocked the purpose of the  
15 handicapped parking law is undermined?

16 MR. SHOEMAKER: Objection. You're  
17 asking him for a legal conclusion.

18 MR. HANNA: Okay.

19 BY MR. HANNA:

20 Q. You agreed that the purpose of the  
21 handicapped parking law was to allow people to  
22 enter, handicapped people to enter your store; is  
23 that correct?

24 A. Correct.

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1 MR. HANNA: No, I'm not talking about  
2 any particular picture. I'm talking in general.

3 BY MR. HANNA:

4 Q. Can you agree that if a person walking from  
5 the handicapped parking space to the entrance of  
6 your store has to walk around a truck to get to the  
7 entrance of your store, that the purpose as you  
8 understand it of the law that requires you to place  
9 handicapped parking in your lot has been  
10 undermined?

11 MR. SHOEMAKER: And that's purely  
12 hypothetical?

13 MR. HANNA: Yes.

14 MR. SHOEMAKER: You're not telling him  
15 that's ever happened, purely hypothetical?

16 MR. HANNA: Purely hypothetical.

17 THE WITNESS: Purely hypothetical,  
18 yes.

19 BY MR. HANNA:

20 Q. Have you ever met either Miss Cottrell or  
21 Mr. Holland before they sought to enforce  
22 handicapped parking laws against you?

23 A. Mr. Holland was actually a client of mine in  
24 my insurance business.

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1 Q. Did you discuss the idea of banning  
2 Miss Cottrell with anybody else?

3 A. No.

4 Q. So the ultimate decision was ultimately yours  
5 to ban Miss Cottrell?

6 A. Yes.

7 Q. What factors were considered?

8 A. The nonpleasure and complaining of our  
9 customers of someone strange taking pictures of  
10 their vehicles and their cars with kids and  
11 whatever else in it, the amount of money I was  
12 spending in tickets and legal fees, and the amount  
13 of time I was, I had to have my manager off and  
14 paying him to go to court.

15 Q. Just a question. How many customers had  
16 complained?

17 A. That would be a question for the manager.

18 Q. What did you perceive to be the benefit of  
19 banning Miss Cottrell?

20 A. Limiting my legal fees, limiting my getting  
21 tickets in the mail every other week and, you know,  
22 the time I had to pay employees to go to court and  
23 also because she wasn't abling me to keep my  
24 clients, my customers satisfied.

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1       A.    I'm sure this letter was written after.   Can  
2   you repeat the question?

3       Q.    When did it first occur to you, and this  
4   might not be the same question, but strike the  
5   former question to the extent it's not, when did it  
6   first occur to you that you might want to ban  
7   Mr. Holland?

8       A.    It was based on legal advice.

9       Q.    But do you recall about when?

10      A.    Well, I would recall based on my letter about  
11   November of '06, but other than when the letter was  
12   written, basically at the same time.

13      Q.    Do you recall how long before you wrote the  
14   letter that it first occurred to you that you might  
15   ban Mr. Holland from your premises?

16      A.    No.

17      Q.    Do you recall whether or not you decided to  
18   ban Mr. Holland from your premises before or after  
19   the first hearing that you participated in?

20      A.    After.   I didn't know Mr. Holland or  
21   Miss Cottrell until that time.

22      Q.    What factors did you consider in deciding to  
23   ban Mr. Holland?

24      A.    Do you want me to repeat the same ones I just



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1 told you for Miss Cottrell?

2 Q. Are they the same considerations?

3 A. Yes.

4 Q. Then yes.

5 A. Okay.

6 He appeared with her in each of the,  
7 as far as I know, in each of the instances at the  
8 store. He was with her each time in court and also  
9 based on legal advice.

10 Q. What benefit did you think that you would  
11 receive from banning Mr. Holland?

12 A. I didn't perceive any benefit, that it would  
13 stop the harassment of customers and tickets and  
14 legal fees and fines.

15 Q. So is it correct to say that the desire to  
16 avoid future tickets, legal fees and fines was a  
17 substantial motivation for banning Miss Cottrell?

18 A. My number one motivation --

19 MR. SHOEMAKER: Objection to form. I  
20 don't know that he testified he ever avoided fines.

21 MR. HANNA: That's correct.

22 MR. SHOEMAKER: That was part of your  
23 question.

24 BY MR. HANNA:

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1 Q. I'm going to show you a series of pictures.

2 MR. HANNA: Please mark this as an  
3 exhibit.

4 (Exhibit D. Strout-5 was marked for  
5 identification.)

6 BY MR. HANNA:

7 Q. Is this your parking lot?

8 A. Yes.

9 Q. Can you identify all of the signs? Can you  
10 identify all of the areas that are reserved for  
11 handicapped parking? Can you describe them for me?

12 A. There is a sign right here. There is a sign  
13 right here (indicating).

14 Q. That's a bad question. But in this picture  
15 do you agree that there are two handicapped parking  
16 spaces?

17 A. That is correct.

18 Q. Do you also agree that there is an access  
19 aisle in between those handicapped parking spaces?

20 A. That is correct.

21 Q. Do you also agree that there are two signs  
22 marking each of the handicapped parking spaces?

23 A. Yes.

24 Q. Okay.

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1 lines I don't know.

2 BY MR. HANNA:

3 Q. Do you recognize that SUV?

4 A. I have an SUV similar. Can I tell you that  
5 that's it from here? No. Can you show me a tag or  
6 something?

7 MR. HANNA: Do you mind if I take a  
8 short break?

9 MR. SHOEMAKER: Not at all.

10 MR. HANNA: I'm going to take a short  
11 break.

12 (Recess; 11:28 a.m.)

13 - - -

14 (Resumed; 11:33 a.m.)

15 BY MR. HANNA:

16 Q. Here is a question for you. Do you recall in  
17 terms of when you banned Miss Cottrell from your  
18 premises, was it prior to the first time you went  
19 to a hearing for one of her tickets?

20 A. No.

21 Q. Okay.

22 It was after the first time?

23 A. I believe so.

24 Q. Was it after the first time but before the

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1 BY MR. HANNA:

2 Q. Would you agree that this picture depicts the  
3 same SUV?

4 A. Yes.

5 Q. And this SUV is still parked. Do you agree  
6 that this vehicle appears to be parked inside of a  
7 handicapped parking space in this picture?

8 A. The entire vehicle or part of it?

9 Q. Part of the vehicle.

10 A. Part of the vehicle appears to be.

11 Q. So a reasonable person could conclude that  
12 this car was parked within, a portion of this  
13 vehicle was parked inside a handicapped parking  
14 space; is that correct?

15 A. Yes.

16 Q. And you recognize the SUV; right?

17 A. Correct.

18 Q. And who owns it?

19 A. The company owns it.

20 Q. Oh, okay.

21 Do you deny that these pictures depict  
22 your company's car parked in the handicapped  
23 parking space on April 10th, 2006?

24 A. I don't know the date, but I would agree that

David J. Strout, Jr.

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1 it appears to be that part of the car is in the  
2 handicapped zone.

3 Q. In the prior picture, I guess we're talking  
4 about 6, do you recognize the car that's next to  
5 it?

6 A. I do not.

7 MR. HANNA: I'd like to enter this as  
8 an exhibit.

9 (Exhibit D. Strout-9 was marked for  
10 identification.)

11 BY MR. HANNA:

12 Q. Is this your building?

13 A. Yes.

14 Q. Is this one of the entranceways here, the  
15 part that's left to the two pillars and to the  
16 right of that tree, is that one of the  
17 entranceways?

18 A. It is one of them.

19 Q. And is that the entranceway that's closest to  
20 the handicapped parking spaces?

21 A. I believe so.

22 Q. Is this truck making deliveries to your  
23 business?

24 A. Yes.

David J. Strout, Jr.

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1 Q. And can you tell that this is the same truck  
2 because the license plate is the same as in the  
3 others?

4 A. That is correct.

5 Q. From this picture does it appear as if a  
6 person would have to walk around the truck to get  
7 to the entrance of your store if they were coming  
8 from the handicapped parking spaces?

9 A. From this picture, yes.

10 MR. SHOEMAKER: Are you representing  
11 to him that all three pictures were taken on the  
12 same date at the same approximate time?

13 MR. HANNA: I am only asking if this  
14 picture, and the answer, and my answer is to the  
15 best of my knowledge, yes, but --

16 MR. SHOEMAKER: The reason I'm  
17 asking, when you produced them to me there were no  
18 time stamps on them like there were some others,  
19 but just to authenticate what these are.

20 MR. HANNA: I understand. I'm just  
21 asking, and this is true of all the pictures I put  
22 to you, when I'm asking you a question I'm asking  
23 you with regards to the one picture. I may ask you  
24 to identify the truck with reference to another

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1 picture, but I'm just asking you by looking at this  
2 one picture. Unless I ask you specifically to give  
3 me your general impression based upon all the  
4 pictures that you've looked at, I'm only asking you  
5 based on the one picture.

6 BY MR. HANNA:

7 Q. Based on that, is there any amendment to your  
8 answer that you would want to make?

9 A. And your question is?

10 Q. Well, thinking back to when we looked at the  
11 last three pictures, I mean you've essentially said  
12 that looking at the other two pictures, and correct  
13 me if I'm wrong, that you can't tell because of how  
14 the picture was taken whether or not a person would  
15 have to walk around the truck; is that correct?

16 A. That is correct.

17 Q. And I'm not asking you to look at these  
18 pictures in combination. I'm asking you to look at  
19 these pictures individually.

20 A. Okay.

21 Q. And does your answer stay the same?

22 A. My answer would be with the number eleven  
23 someone in a wheelchair would have to zigzag around  
24 the truck. Someone that would be walking would not

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1 necessarily have to zigzag around the truck.

2 Q. Okay.

3 A. Because there is an entrance. There is space  
4 over here which would not create them to zigzag.  
5 In a wheelchair in this picture I believe they  
6 would have to zigzag.

7 MR. HANNA: Okay. I'm going to enter  
8 another picture.

9 (Exhibit D.Strout-12 was marked for  
10 identification.)

11 BY MR. HANNA:

12 Q. Is that your premises?

13 A. That is correct.

14 Q. And are those your handicapped parking  
15 spaces?

16 A. That is correct.

17 Q. And does that appear to be the same truck?

18 A. I have no clue from this picture.

19 Q. I'd like to refer you back to this picture.  
20 I don't know which exhibit you have it as.

21 MR. SHOEMAKER: Strout-9.

22 MR. HANNA: Strout-9.

23 BY MR. HANNA:

24 Q. Refer back to Strout-9.



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1 A. I truthfully don't know.

2 Q. I understand.

3 A. Because I don't know if that's who  
4 distributes Miller Light or not.

5 Q. I understand.

6 From this picture is it inconsistent  
7 with the prior truck?

8 MR. SHOEMAKER: Objection to form.

9 BY MR. HANNA:

10 Q. From this picture is it feasible that this  
11 truck is the same truck as the truck that's  
12 depicted in the last picture?

13 MR. SHOEMAKER: Objection.

14 THE WITNESS: I don't know. I can't  
15 see the back of it.

16 BY MR. HANNA:

17 Q. From this picture does this truck appear to  
18 be blocking one of the entrances to your store?

19 A. It appears that if you were in a wheelchair  
20 it would be blocking the entrance to the store. If  
21 you were walking you would have entrance to the  
22 store.

23 Q. Okay.

24 Can you tell from the placement of

David J. Strout, Jr.

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1 Q. Do they have less room?

2 A. Yes.

3 Q. Next to the handicapped parking space do you  
4 see, is there another parking space?

5 A. Are you talking in the picture to the left or  
6 to the right?

7 Q. In the picture that we're looking at, to the  
8 right of the handicapped parking space there is  
9 another parking space?

10 A. Yes.

11 Q. And that parking space, is that a general  
12 parking space?

13 A. I believe so.

14 Q. So that's not a parking space that's reserved  
15 for people with disabilities; is that correct?

16 A. No.

17 MR. HANNA: I'm going to enter  
18 another picture.

19 (Exhibit D. Strout-17 was marked for  
20 identification.)

21 BY MR. HANNA:

22 Q. Is that your store?

23 A. Yes.

24 Q. And does that appear to be the same truck?

**J&D'S DISCOUNT LIQUOR GALLERY, INC.**  
**430 NORTH BROAD STREET**  
**WOODBURY, NJ 08096**  
**856-853-9616**

RECEIVED  
NOV 08 2006  
BY: .....

November 3, 2006

Richard Holland  
31 S. Academy Street  
Glassboro, NJ 08028

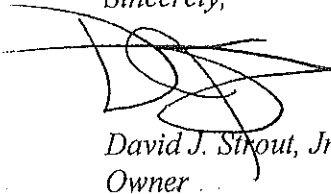
Dear Mr. Holland:

Please let this letter serve as official notification that you are no longer permitted access to our premises at 430-432 N. Broad Street, Woodbury, NJ 08096. Your past actions have hampered our ability to properly run our business and have upset many of our customers.

If you are seen on our premises, the Police will be called immediately and we will pursue prosecution for trespassing.

If you have any questions regarding this matter, please contact Christopher C. Cona, Esq., at 856-848-8981.

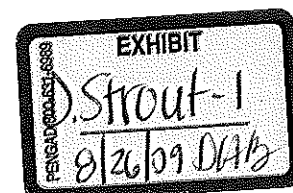
Sincerely,

  
David J. Strout, Jr.  
Owner

✓ Sent certified return receipt requested and regular USPS mail.

cc: Christopher C. Cona, Esq.

cc: Reed Merinuk, Chief of Police-Woodbury



FILE

***Christopher C. Cona, Esq.***

*Member of New Jersey & Pennsylvania Bars*

P.O. Box 12  
24 South Broad Street  
Woodbury, New Jersey 08096  
(856) 848-8981

March 23, 2007

Robert Agre, Esquire  
4 E. Kings Highway  
Haddonfield, NJ 08033

Subject: ***J & D Liquors and Maryann Cottrell***

Dear Mr. Agre:

Pursuant to our Court appearance on March 22, 2007 and our discussions please make sure your client knows that under no circumstances is she allowed on J&D Liquors property. It is my understanding that your client did receive a letter from my client sometime ago that indicated the above.

Thank you for your kind attention to this matter. If there are any questions, please do not hesitate to contact me.

Sincerely,

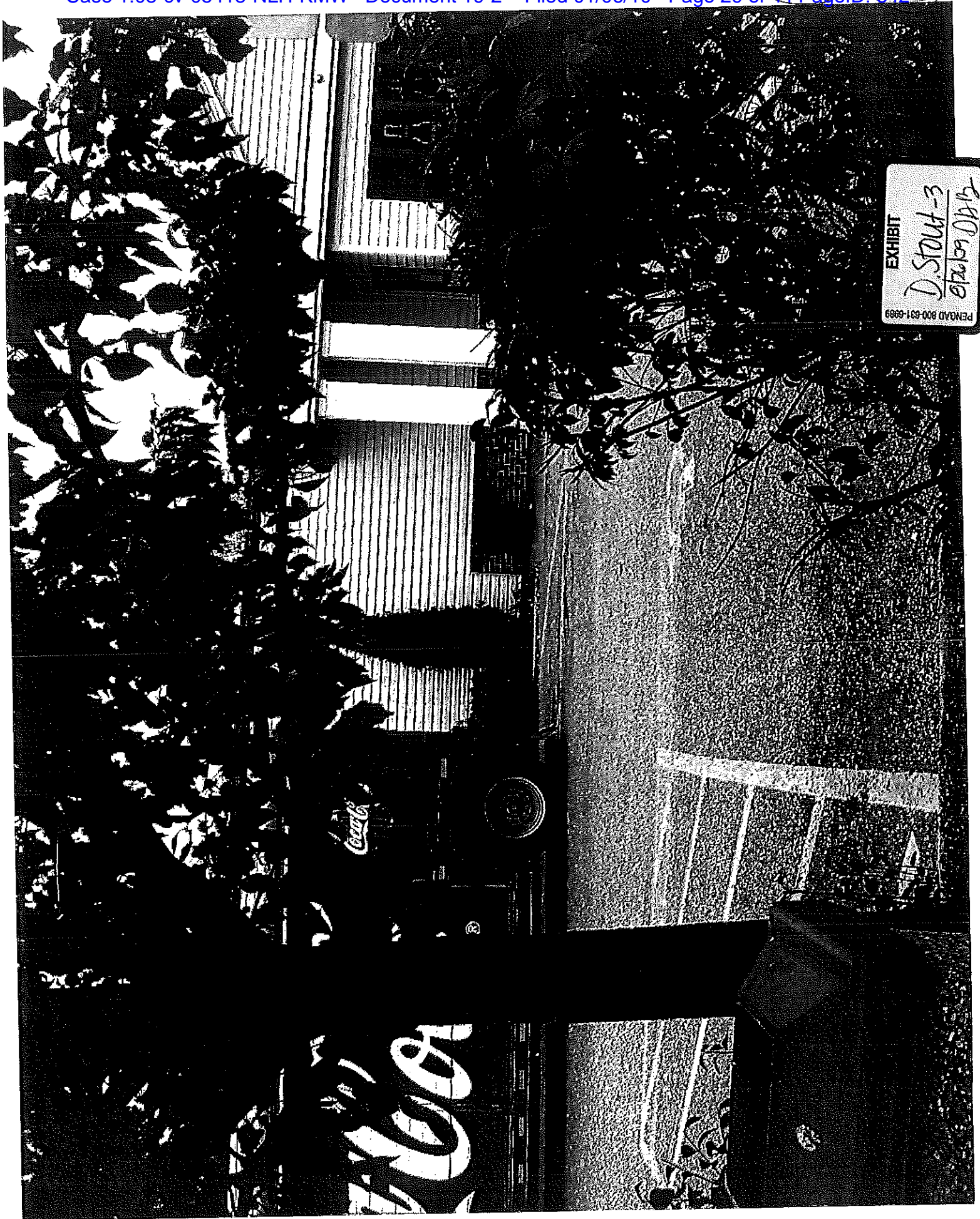
Christopher C. Cona

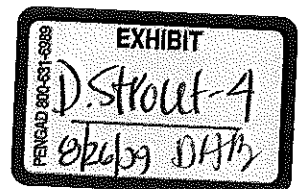
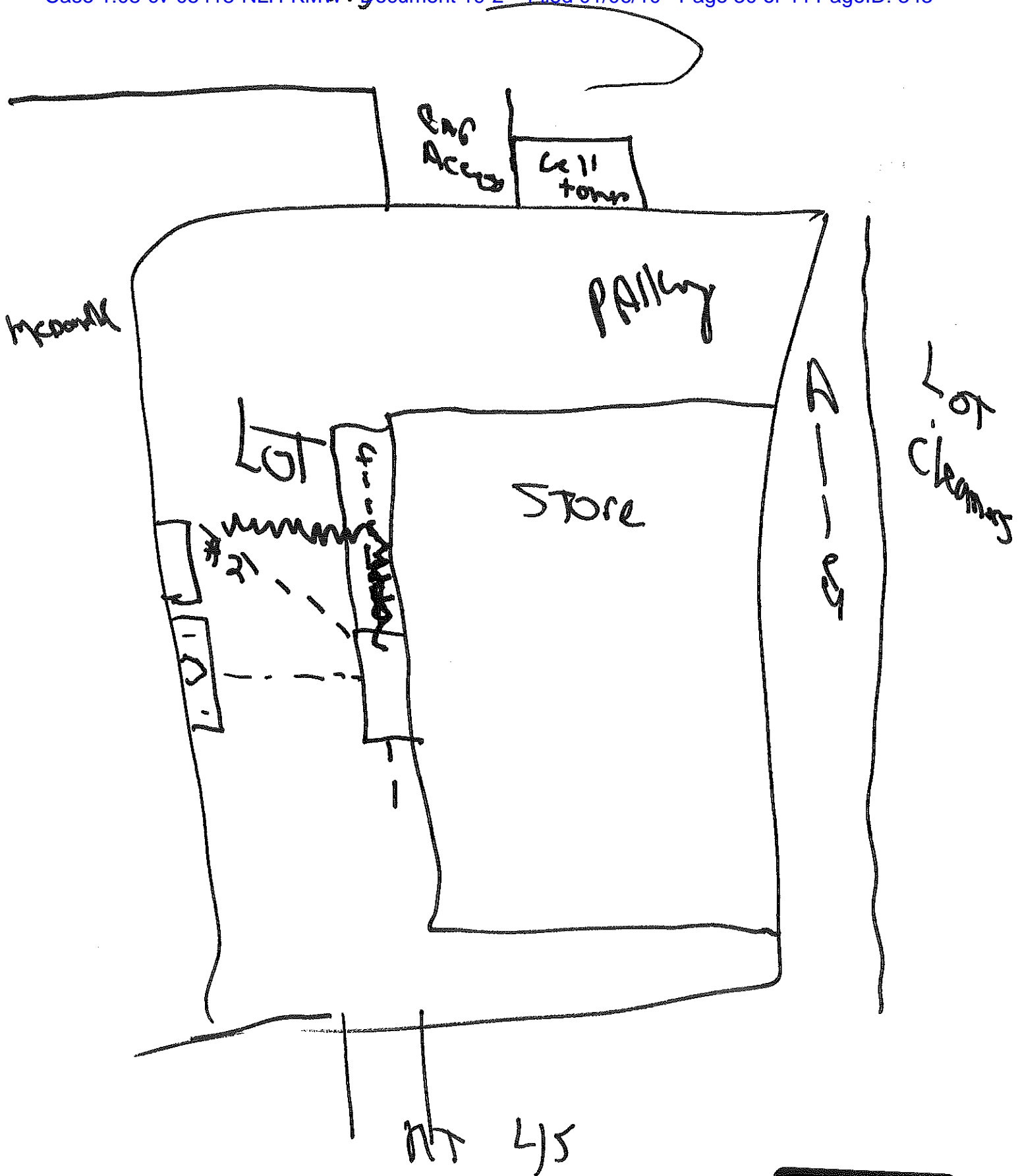
CCC/cd

cc: J & D Liquors; Attn: Dave Trout

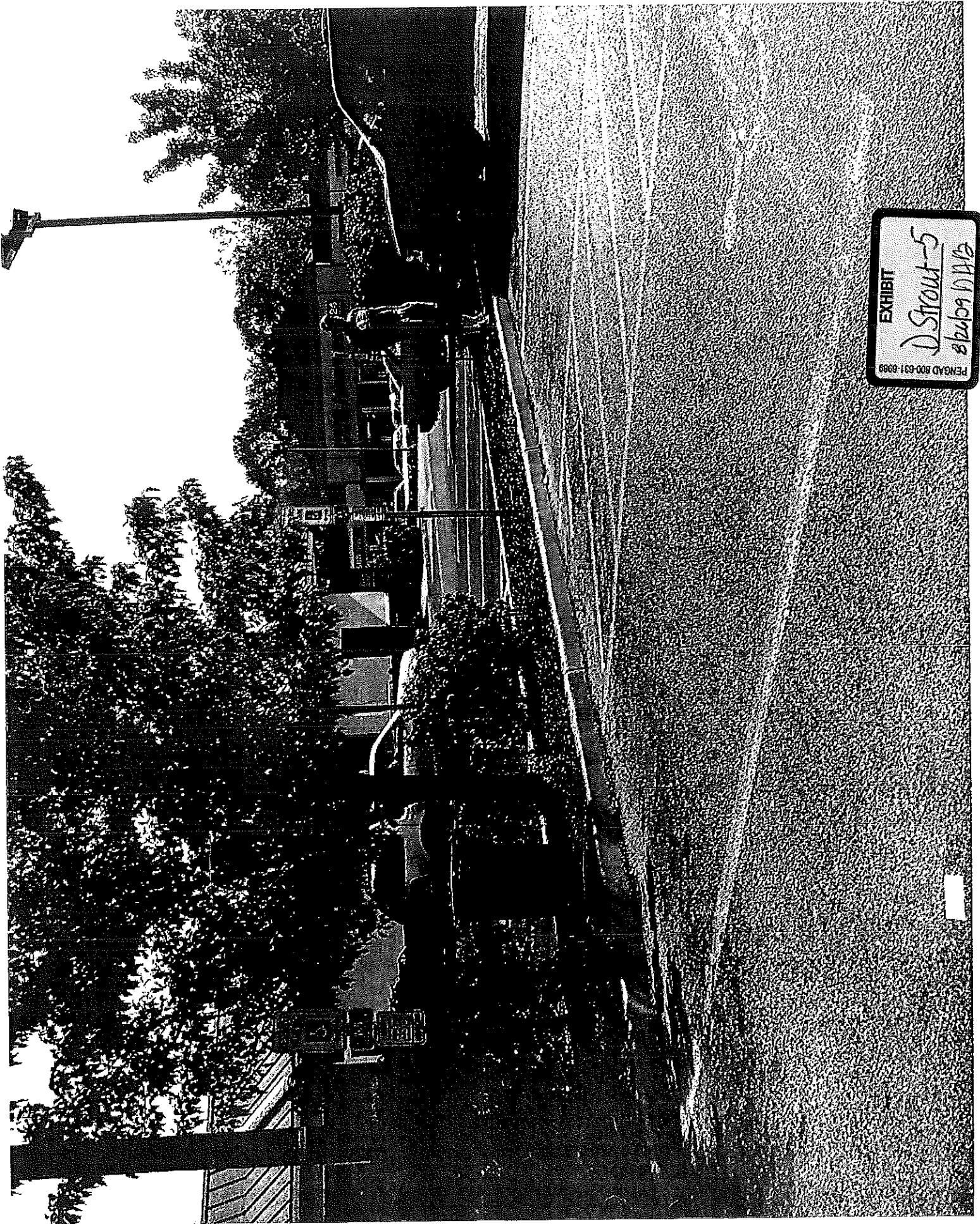
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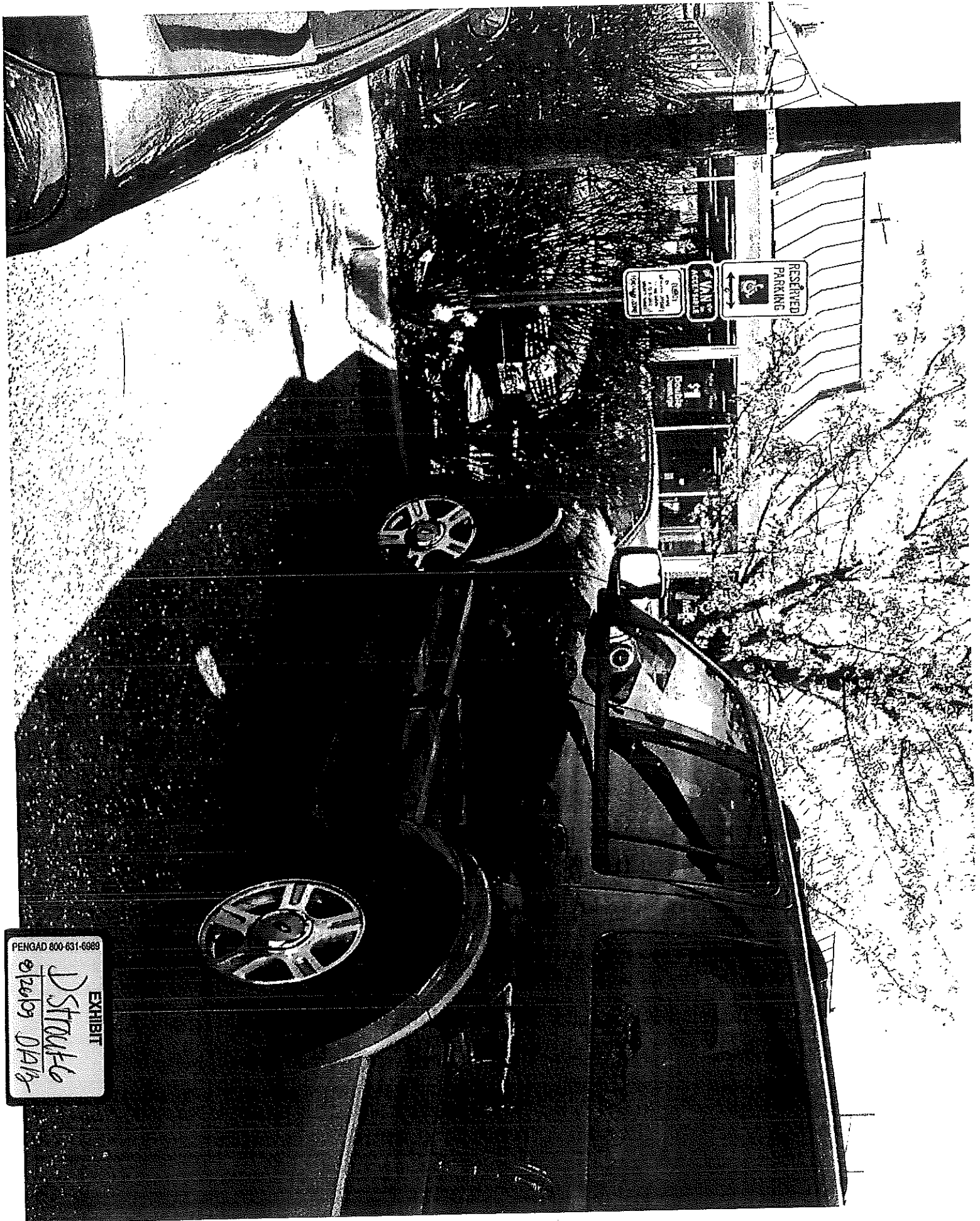












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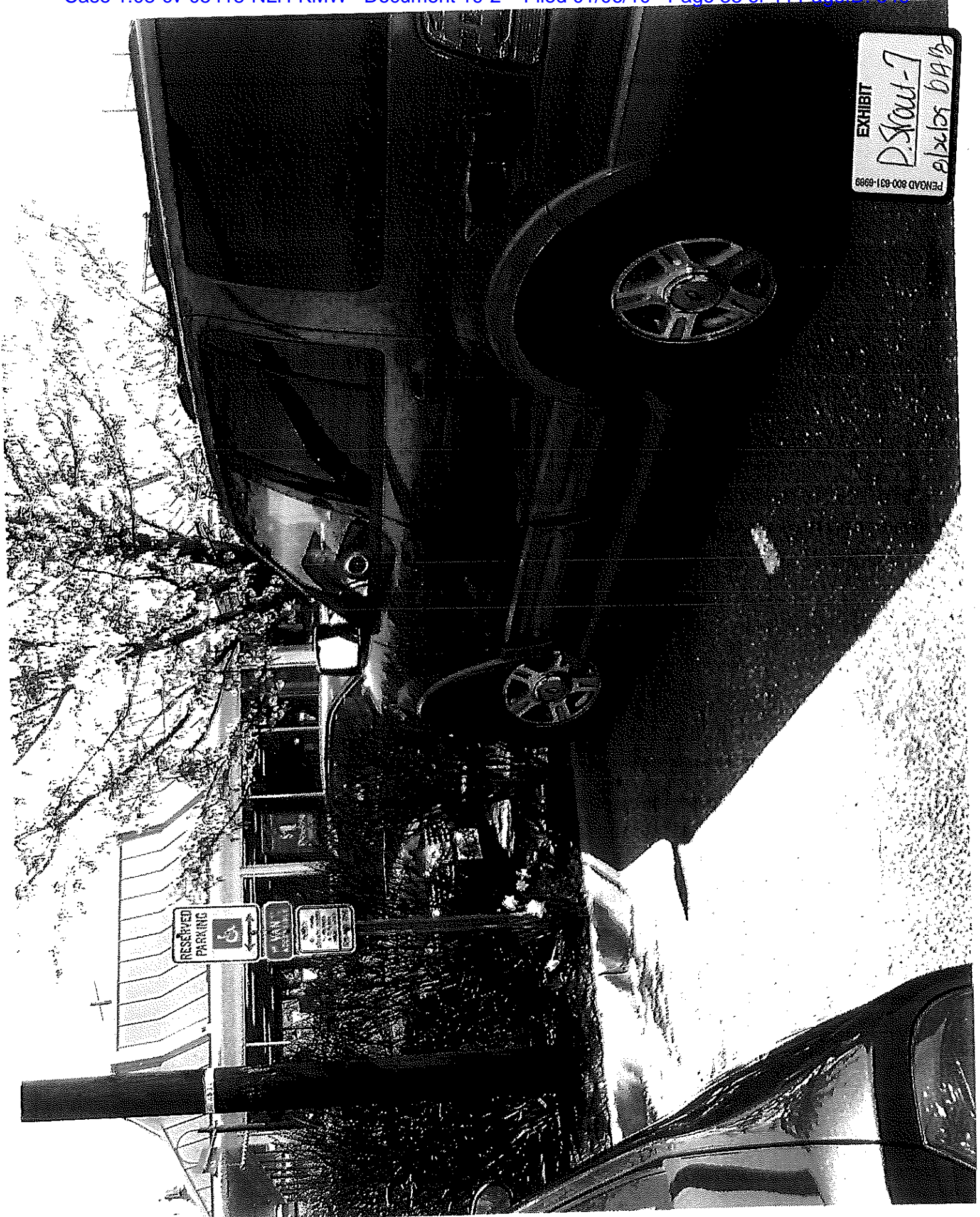


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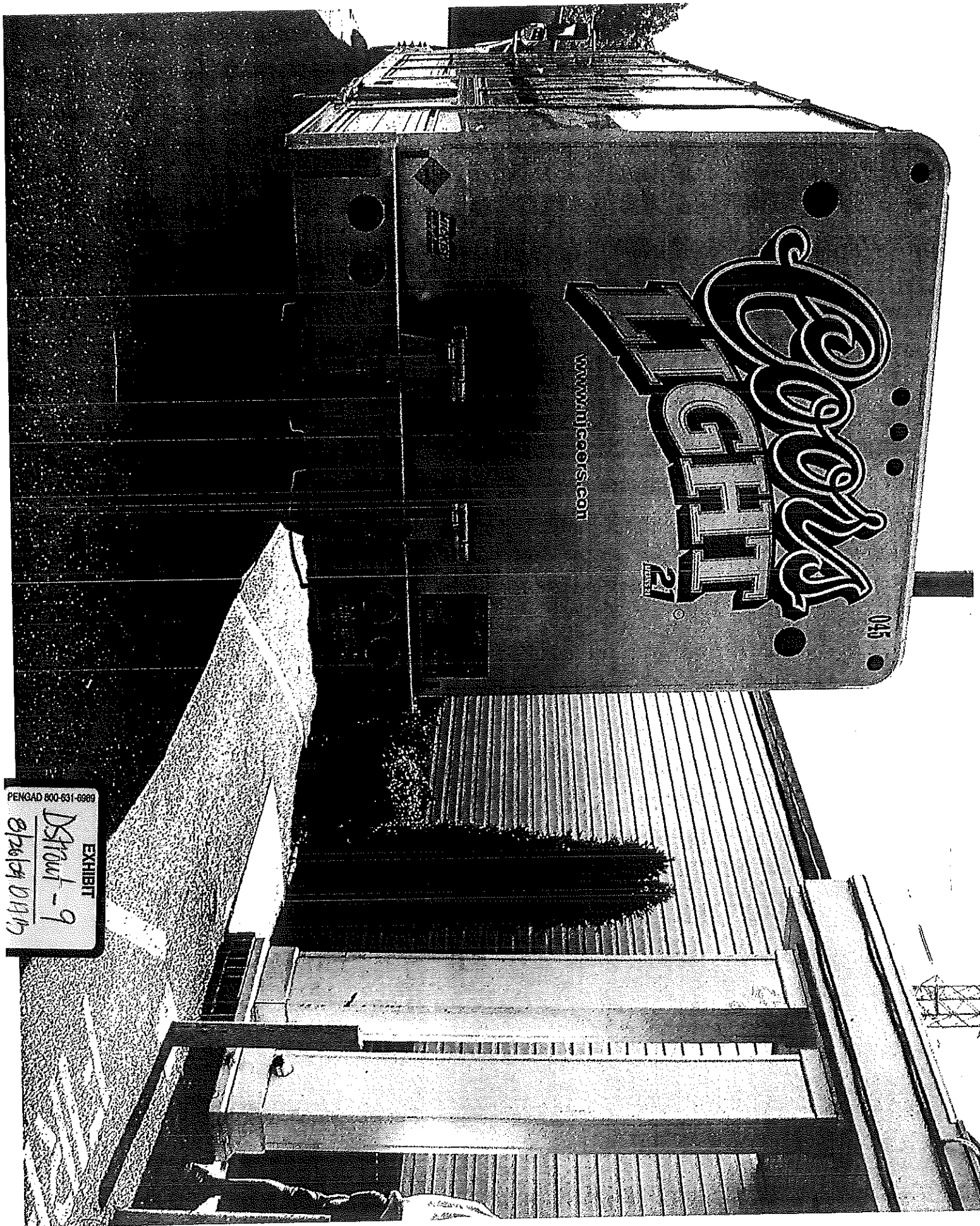
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8/26/09 09:15



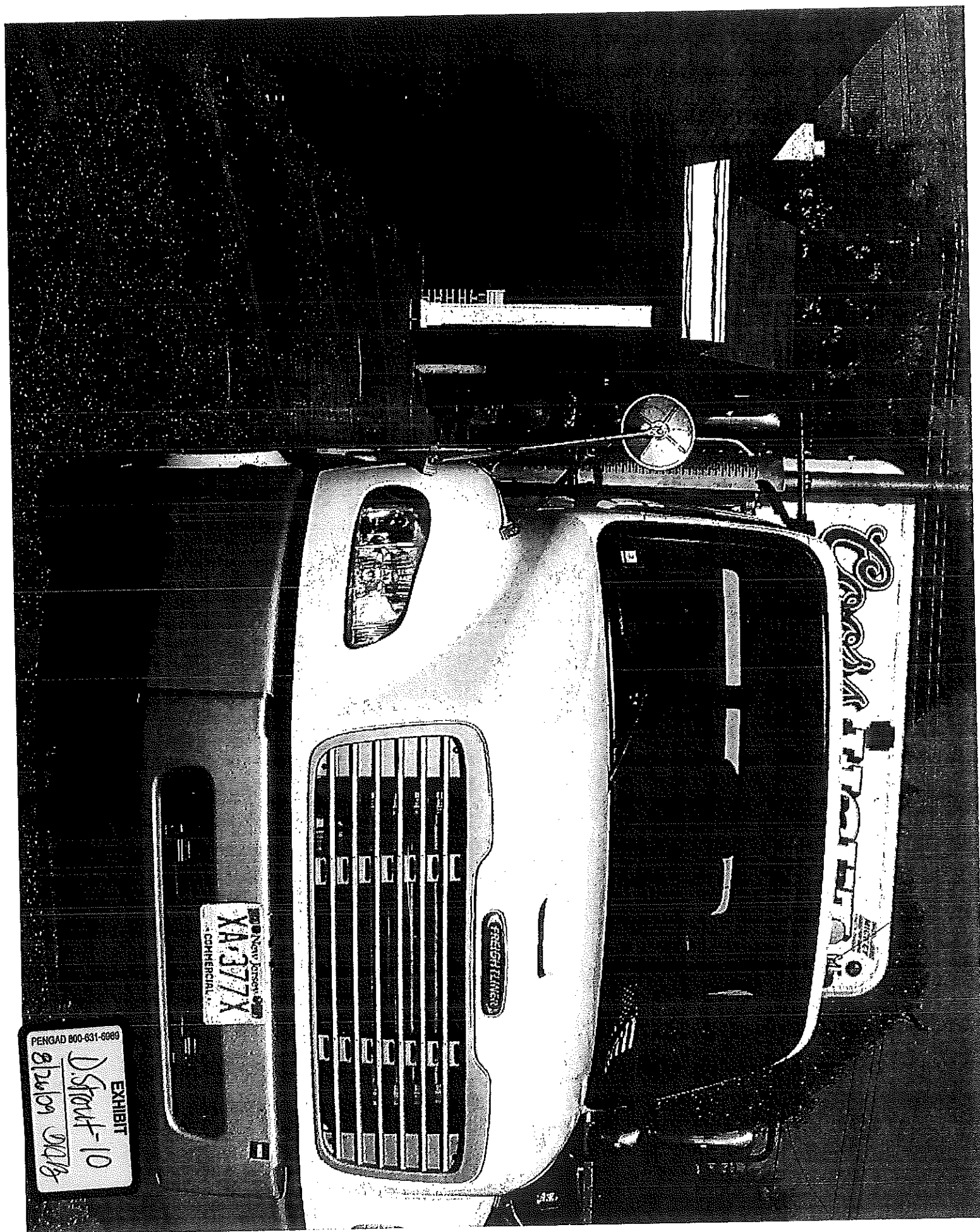


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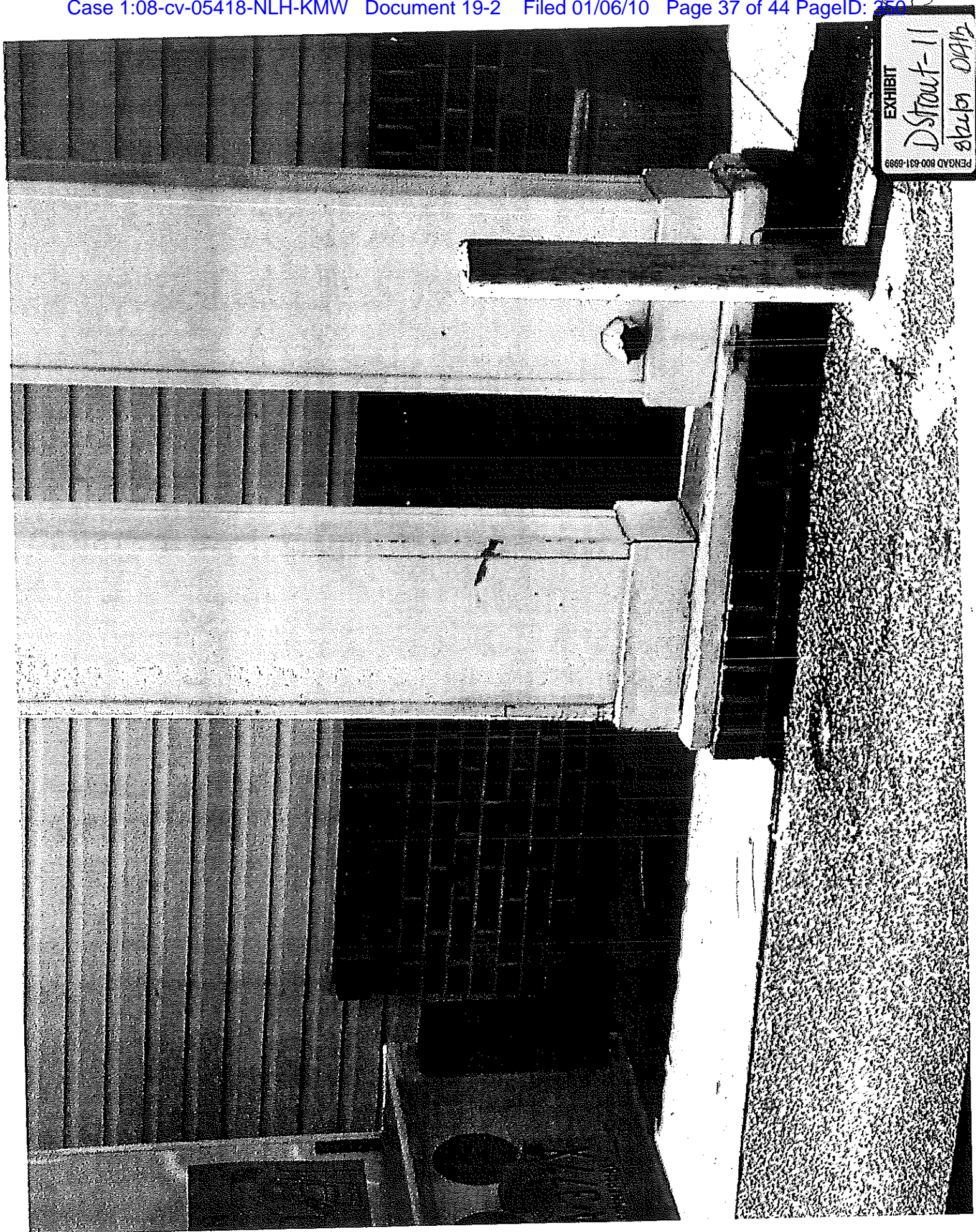
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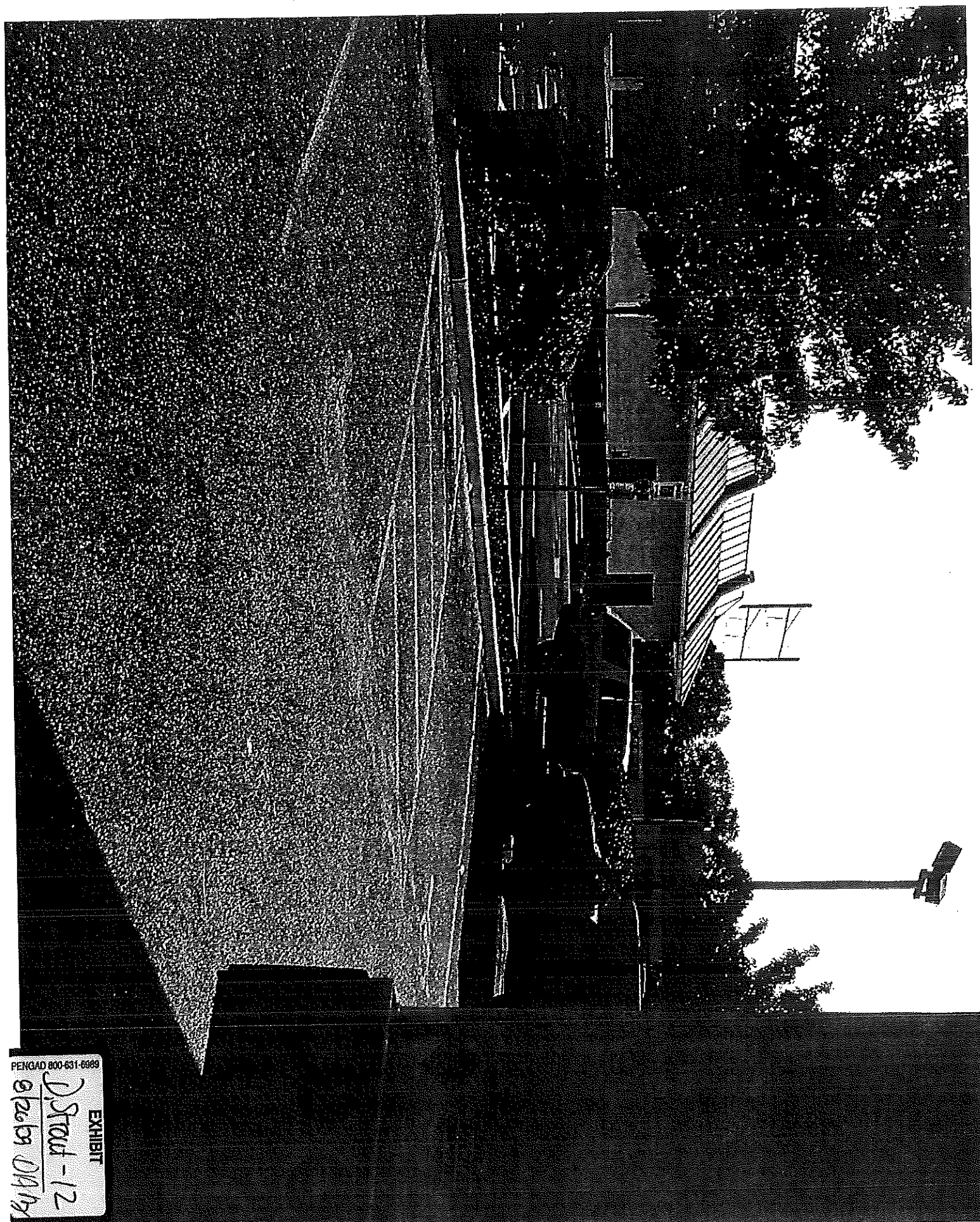


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EXHIBIT  
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8/26/09 01/17/09

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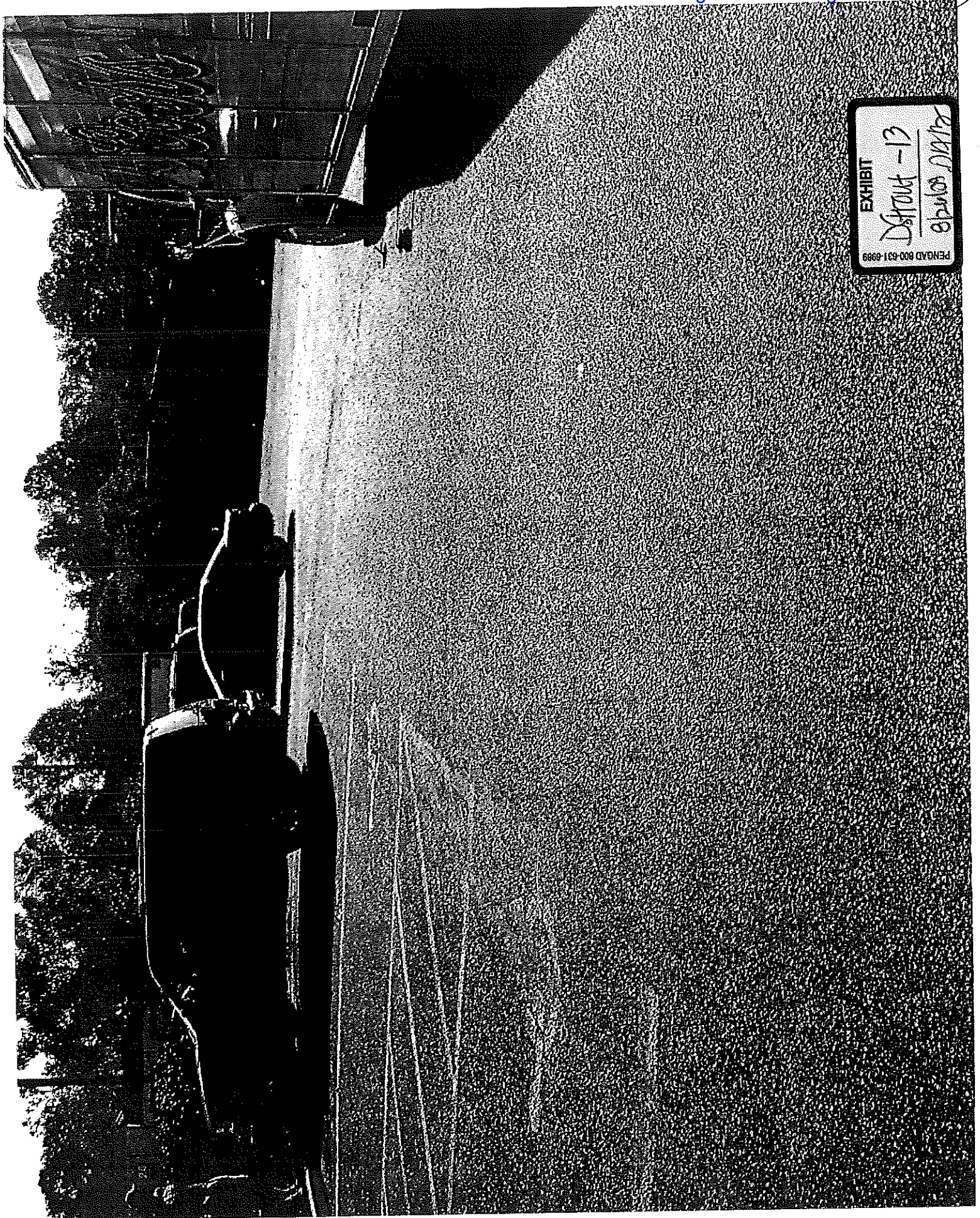
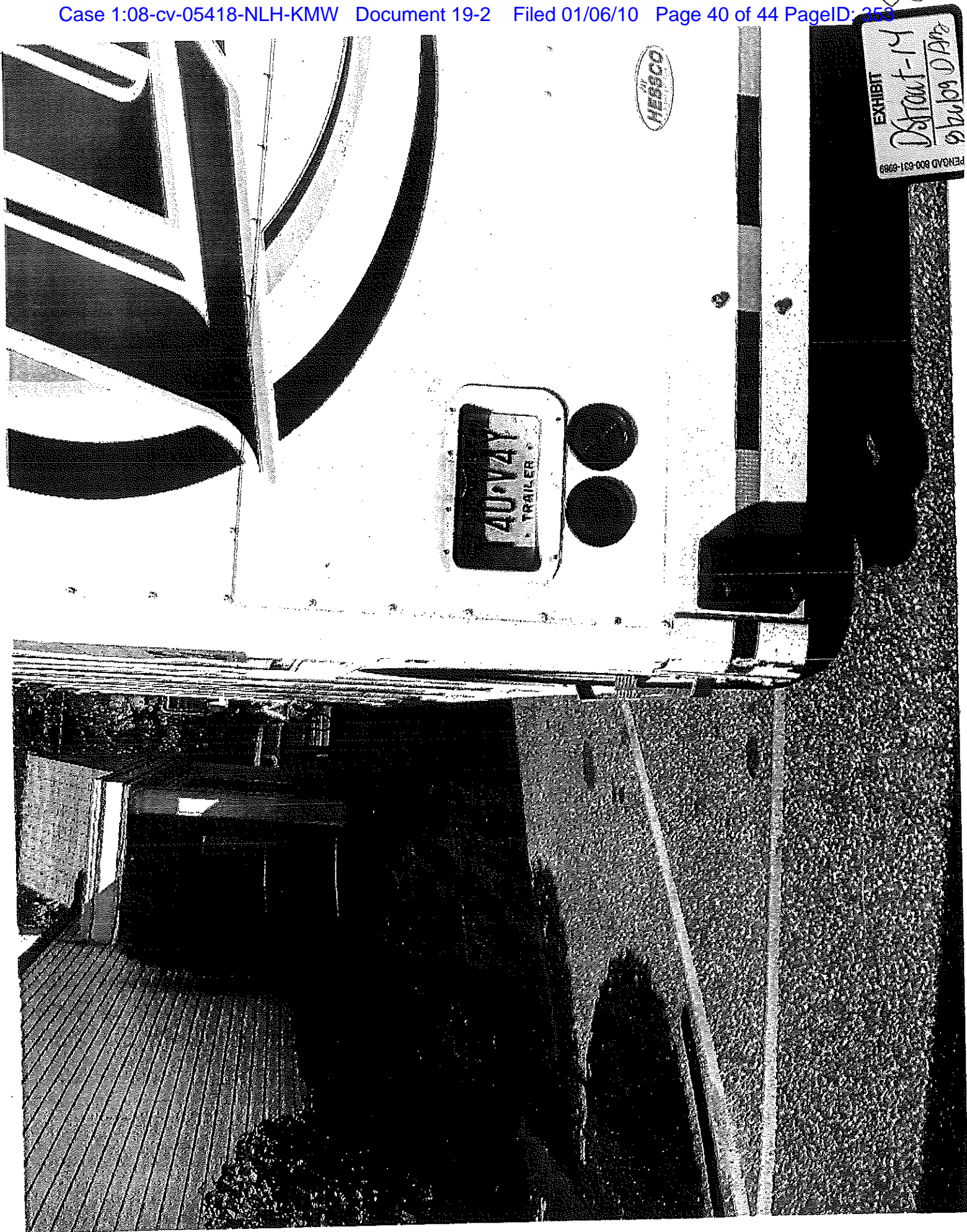


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april 12/12  
PENGAD 800-631-6999







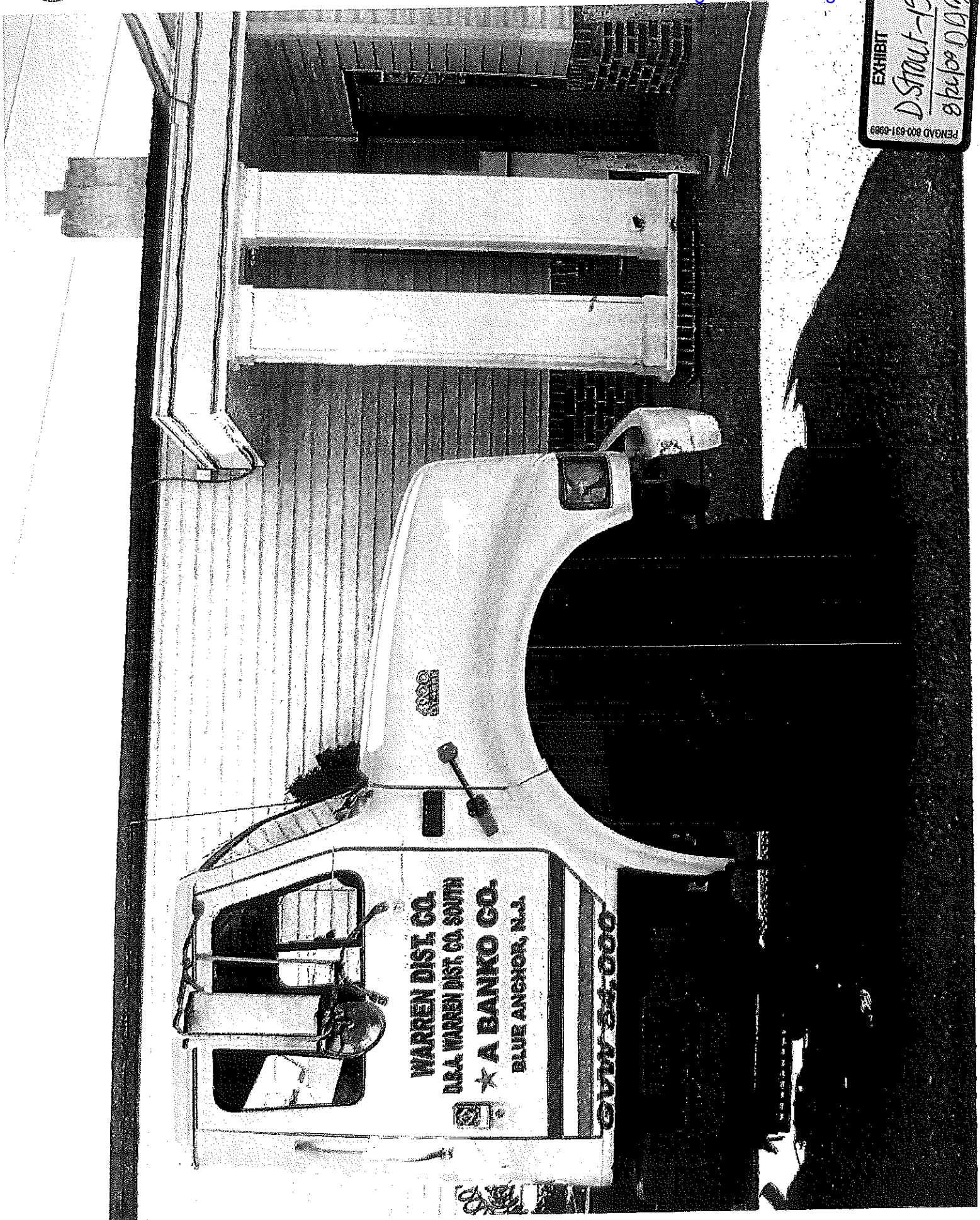


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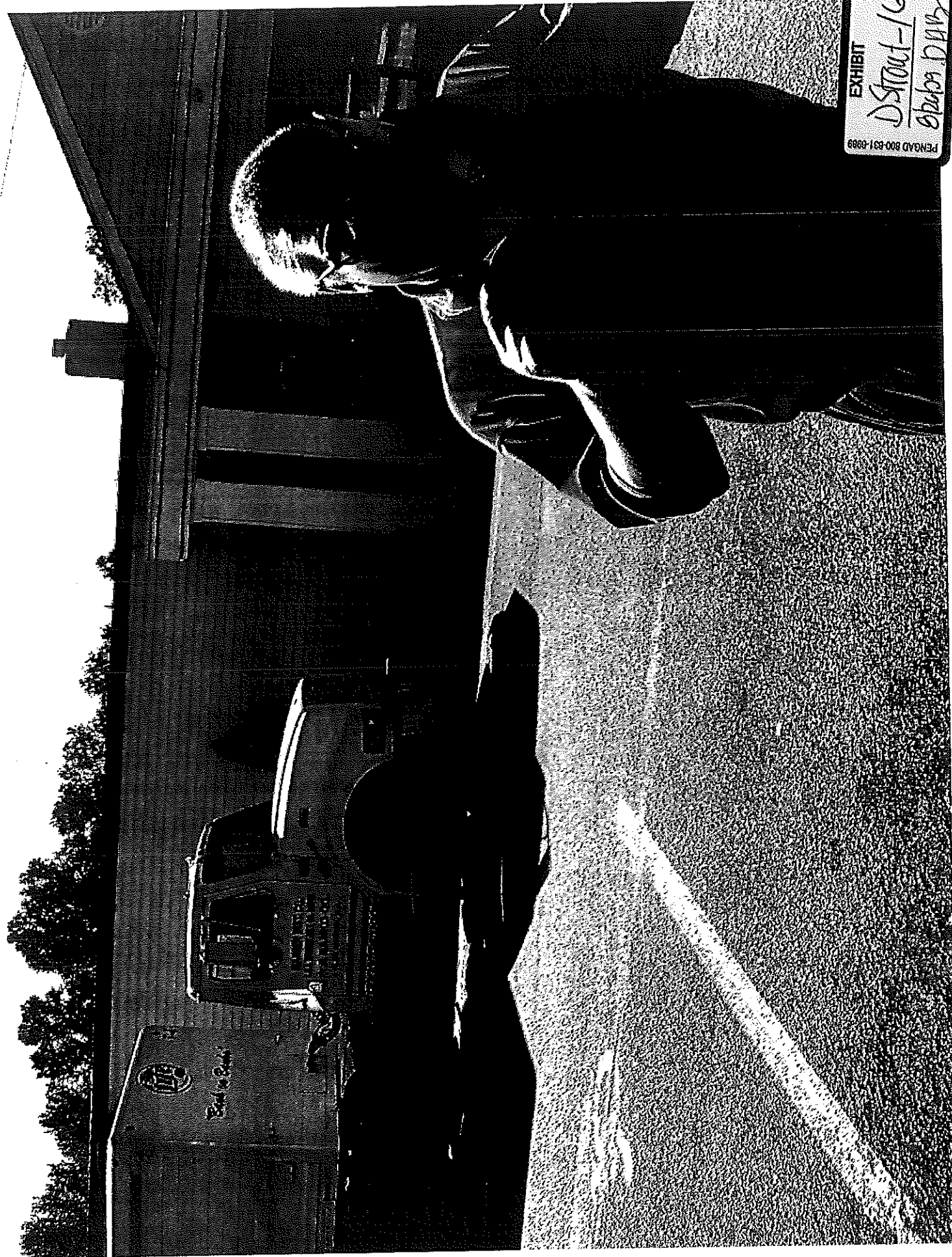




EXHIBIT  
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PENGAD 800-631-6080  
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8/26/09 DPH

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